

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

THOMAS R. HOOD §
VS. § CIVIL ACTION NO. 5:09cv4
DIRECTOR, TDCJ-CID §

MEMORANDUM OPINION REGARDING TRANSFER

Petitioner Thomas R. Hood, an inmate confined at the Gurney Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, brings this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The above-styled action was referred to the undersigned magistrate judge pursuant to 28 U.S.C. § 636 and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to the United States Magistrate Judge for findings of fact, conclusions of law, and recommendations for the disposition of the case.

Discussion

On September 9, 2005, in the 76th District Court of Morris County, Texas, petitioner was convicted of unlawful possession of a firearm by a felon. Petitioner sentenced to a term of ten (10) years confinement. Petitioner brings this petition contesting his conviction and sentence.

Pursuant to 28 U.S.C. § 2241(d), a petitioner may bring his petition for writ of habeas corpus in the district court for the district wherein such person is in custody or in the district court for the district within which he was convicted. Section 2241(d) further provides that the district court in the exercise of its

discretion may transfer the action to the other district in the furtherance of justice.

Petitioner was convicted and sentenced in Morris County which is located in the Marshall Division of the Eastern District of Texas. Petitioner is confined at the Gurney Unit in Tennessee Colony, Texas which is located in the Tyler Division of the Eastern District of Texas. Thus, jurisdiction is proper in the Eastern District of Texas. However, the petition has been inadvertently filed in the Texarkana Division instead of the Marshall Division.

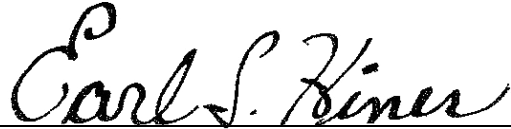
While jurisdiction is proper in the Eastern District of Texas, the court has considered the circumstances and has determined that the interest of justice would best be served if this petition were transferred to the division in which the petitioner was convicted.

Under 28 U.S.C. § 1404(a), for the convenience of parties and witnesses and in the interest of justice, a district court may transfer any civil action to any other district or division where it could have been brought. Such a transfer may be done *sua sponte* and is reviewable only for an abuse of discretion. *Mills v. Beech Aircraft Corp.*, 886 F.2d 758, 761 (5th Cir. 1989).

Since petitioner complains of a conviction which occurred in the Marshall Division, all records and witnesses involving this action most likely will be located in the Marshall Division. Thus, the transfer of this action to such division would further justice. Therefore, it is the opinion of the undersigned that this petition should be transferred to the United States District Court for the Eastern District of Texas, Marshall Division. An Order of Transfer

so providing shall be entered in accordance with this Memorandum Opinion.

SIGNED this 26 day of January, 2009.

A handwritten signature in black ink, reading "Earl S. Hines". The signature is written in a cursive style with a large initial "E".

EARL S. HINES
UNITED STATES MAGISTRATE JUDGE